



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2016-0590; FRL-9979-87-Region 10]

Air Plan Approval; AK; Interstate Transport Requirements for the 2010 Nitrogen Dioxide and Sulfur Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) submittal from the Alaska Department of Environmental Conservation (Alaska DEC) demonstrating that the SIP meets certain interstate transport requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated in 2010 for nitrogen dioxide (NO₂) and sulfur dioxide (SO₂). The EPA has determined that Alaska's SIP contains adequate provisions to ensure that air emissions in Alaska do not significantly contribute to nonattainment or interfere with the maintenance of the 2010 NO₂ and SO₂ NAAQS in any other state.

DATES: This final rule is effective **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2016-0590. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: John Chi at (206) 553-1185, or chi.john@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to the EPA. Information is organized as follows:

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I. Background

On April 23, 2018, the EPA proposed to approve Alaska’s March 10, 2016, SIP submission as meeting CAA section 110(a)(2)(D)(i)(I) interstate transport provisions for the 2010 NO₂ and 2010 SO₂ NAAQS (83 FR 17627). Please see our proposed rulemaking for further explanation and the basis for our finding (April 23, 2018, 83 FR 17627).

The public comment period for the EPA’s proposed action ended on May 23, 2018. We received no adverse comments. There were four electronic comments submitted through <https://www.regulations.gov>. We reviewed the comments and we have determined that none are germane to this action. Therefore, we are finalizing our action as proposed.

II. Final Action

The EPA is approving Alaska’s March 10, 2016, SIP submission as demonstrating

sources in Alaska do not significantly contribute to nonattainment, or interfere with maintenance, of the 2010 NO₂ and SO₂ NAAQS in any other state. Based on our review, we find the Alaska SIP meets the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2010 NO₂ and SO₂ NAAQS.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Sulfur dioxide.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 14, 2018.

Chris Hladick,
Regional Administrator,
Region 10.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C - Alaska

2. In § 52.70, the table in paragraph (e) is amended by adding an entry for “Interstate Transport Requirements – 2010 NO₂ and 2010 SO₂ NAAQS” after the entry for “Infrastructure Requirements—2010 SO₂ NAAQS” to read as follows:

§ 52.70 Identification of plan.

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(e) * * *

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanations
* * * * *				
State of Alaska Air Quality Control Plan: Volume III. Appendices				
* * * * *				
Infrastructure and Interstate Transport				
* * * * *				
Interstate Transport Requirements – 2010 NO ₂ and 2010 SO ₂ NAAQS	Statewide	3/10/2016	[Insert date of publication in the <u>Federal Register</u>], [Insert <u>Federal Register</u> citation]	Approves SIP for purposes of CAA section 110(a)(2)(D)(i) (I) for the 2010 NO ₂ and 2010 SO ₂ NAAQS.
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[FR Doc. 2018-13451 Filed: 6/22/2018 8:45 am; Publication Date: 6/25/2018]